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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 6, 2002

EX PARTE
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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

EX PARTE OR LATE FILED

Re: CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch

By way of this letter, Conversent Communications, LLC ("Conversent") provides a follow-up to its October 10, 2002 letter in which it explained that the true cost of purchasing unbundled interoffice ("IOF") dark fiber is far above any reasonable measure of forward-looking costs. Conversent explained that it has experienced at least four major inefficiencies in Verizon's provisioning, management and maintenance of unbundled IOF dark fiber that raise the true costs far above TELRIC. In this letter, Conversent will attempt to quantify the additional costs of unbundling that are associated with two ^{of} these inefficiencies by pointing to its experience using unbundled IOF dark fiber in Massachusetts. This fact is critical because the DC Circuit in *United States Telecom Ass'n v. FCC* significantly overstated the purported costs in terms of consumer welfare of unbundling because it assumed that competitors only pay what it characterized as relatively low TELRIC-based prices.¹

Conversent has installed three SONET rings in eastern and central Massachusetts by leasing unbundled IOF dark fiber and using Conversent electronics. These SONET rings consist of approximately 75 spans of interoffice transport, encompassing about 900 air miles.² Maps depicting each of these three fiber rings are attached to this letter as Exhibits 1, 2, and 3, respectively. Based on Verizon's current wholesale tariffs, the transport costs for using unbundled IOF dark fiber for these SONET rings amount to approximately \$826,000 a year.³

¹ F.3d 415, 424-25 (D.C. Cir. 2002).

² The rings also contain spurs, such as the spur from Framingham to Marlboro depicted in Fiber Ring #1 on Exhibit 1.

³ Additionally, the annual DC power costs that Conversent pays to Verizon to energize this dark fiber transport amount to about \$150,000.

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Conversent's true cost for unbundled dark fiber in Massachusetts is much greater than \$826,000 per year when one considers that Verizon guarantees no standard for the transmission quality of unbundled dark fiber. In fact, the actual average bi-directional loss for unbundled IOF dark fiber provided by Verizon to Conversent is in excess of 1 dB/KM, which is approximately four times worse than other vendors.⁴ As a result, Conversent has had to undertake substantial efforts, at an additional up-front cost of approximately \$1,000,000, to increase the quality of many of the spans of IOF dark fiber provided by Verizon.

For example, Conversent had to purchase and attach long-range laser equipment to improve the transmission quality of approximately 30 percent of the dark fiber spans that Verizon provided to Conversent, at an expense of about \$143,000. Additionally, for at least six spans initially requested by Conversent: (i) Lowell to Burlington, (ii) Waltham Spring to Framingham, (iii) Cambridge to Framingham, (iv) Worcester to Brockton, (v) Quincy to Cambridge, and (vi) North Attleboro to Taunton, the quality of the fiber was so poor that installing additional long-range laser equipment was not adequate to improve the transmission quality. As a result, Conversent was required to collocate in nine additional intermediate central offices, Billerica and Wellesley (Fiber Ring #1, Exhibit I), Newton, Milford, North Attleboro, Taunton, Norton and Franklin Street, (Fiber Ring #2, Exhibit 2), and Bowdoin (Fiber Ring #3, Exhibit 3)⁵ so that Conversent could install repeaters to sufficiently improve the transmission quality for these spans. The non-recurring charges for collocating in these intermediate central offices amounted to about \$164,000. The recurring charges amount to \$180,000 per year. Conversent was also required to incur an additional \$804,000 to purchase and install multiplexers for these nine arrangements. Having to collocate in nine additional offices also delayed Conversent's ability to complete Fiber Ring #1 by about fifteen months and Fiber Ring #2 by about eleven months. In order to serve customers during this time, Conversent had to order lit interoffice transport at an additional cost of \$13,000, while the dark fiber electronics for these central offices remained idle.

Second, there is a substantial inefficiency caused by having to order collocation and IOF dark fiber sequentially. That is, Conversent cannot order IOF dark fiber until it has collocated in the Verizon central offices that it seeks to connect. Where it is available, it takes Conversent on average 6 weeks to order and obtain unbundled dark fiber from Verizon. Verizon's practice is to charge CLECs for collocation, including DC power, at the time that the collocation arrangement is turned over, rather than the time that a CLEC actually begins to use the arrangements and to drawdown on the power. If Conversent had been able to order collocation and dark fiber concurrently, Conversent would not have had to pay recurring charges for the collocation arrangements on its three SONET rings until it was ready to use them. This, in turn, would have saved Conversent approximately \$100,000 in unnecessary recurring costs.

⁴ As explained in Conversent's October 10, 2002 *Ex Parte* letter, one of Conversent's long haul transport vendors commits to provide fiber with average bi-directional loss that does not exceed 0.22 to 0.25 dB/KM at a wavelength of 1,550 nm.

⁵ Conversent is collocated in Reading and has purchased electronics in order to use IOF dark fiber. However, Conversent has been unable to connect this collocation arrangement by way of dark fiber because of poor transmission quality. In April 2000, Conversent connected this central office by way of lit interoffice transport at an additional annual cost of \$15,350.

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The above described inefficiencies increased Conversent's annual dark fiber transport costs in Massachusetts by \$460,035 for the first year, an increase of more than 54 percent above the TELRIC cost of \$826,000, and by \$347,035 for subsequent years, an increase of more than 40 percent.

Calculation for the First Year:

\$135,285	\$804,000 + \$143,000 for additional electronics ÷ 7 years = \$135,285 ⁶
\$16,400	\$164,000 for collocation NRCs ÷ 10 years = \$16,400
\$180,000	MRCs for additional collocation arrangements
\$100,000	Additional collocation charges associated with sequential ordering
<u>+ \$28,350</u>	Additional interoffice transport
\$460,035	

Finally, as Conversent explained in its October 10, 2002 letter, there are a number of different ways in which ILEC provisioning imposes inefficiencies on requesting carriers. This letter seeks to quantify only a subset of these inefficiencies. Therefore, any comprehensive analysis would show that the real costs of unbundled IOF dark fiber to requesting carriers are much higher than even those detailed here.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), and the Protective Order in CC Docket Nos. 01-338, 96-98, 98-147, 17 FCC Rcd 5852 (WCB 2002), this redacted, public version of the letter and a copy are being filed for inclusion in the public record of the above-referenced proceedings. In addition, we have filed one copy of the unredacted, confidential version of this filing under separate cover with the Secretary of the Commission.

Sincerely,



Scott Sawyer

Vice President-Regulatory Affairs
Conversent Communications, LLC

SS/pf

cc: Janice Myles (confidential version only)
Michelle Carey (public version only)
Jeremy Miller (public version only)
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⁶ Assumes amortization of electronic equipment over a 7 year period and collocation arrangements over ten years.

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[EXHIBITS REDACTED]